

# **Attachment D**

## **Conditions of Approval**

## CONDITIONS OF APPROVAL

### TENTATIVE TRACT MAP 16382

All applicable provisions and requirements of City Codes and Ordinances shall be met for this project. All conditions unless otherwise specifies are due prior to the issuance of building permits. The following specific requirements shall also apply:

#### **1. COMMUNITY DEVELOPMENT DEPARTMENT**

- 1.1 Within two years of this approval, the Tentative Tract Map shall be exercised or the permit/approval shall become null and void. These subdivisions shall be granted an extension of time for up to the ten (10) year term of the Development Agreement.

PROJECT:

TENTATIVE TRACT MAP (TTM) 03-02 (16382)  
DEVELOPMENT AGREEMENT

EXPIRATION DATE:

October 28, 2005  
October 28, 2014

- 1.2 In the event that this approval is legally challenged, the City will promptly notify the applicant of any claim or action and will cooperate fully in the defense of the matter. Once notified, the applicant agrees to defend, indemnify, and hold harmless the City, its officers, agents and employees from any claim, action or proceeding against the City of Loma Linda. The applicant further agrees to reimburse the City of any costs and attorneys' fees, which the City may be required by a court to pay as a result of such action, but such participation shall not relieve applicant of his or her obligation under this condition.
- 1.3 The proposed small lot subdivision shall conform to all provisions of Title 16 of the Loma Linda Municipal Code.
- 1.4 The applicant shall submit a final landscape plan prepared (3 sets) by a state licensed Landscape Architect, subject to approval by the Planning Commission, Community Development Department, and by the Public Works Department for landscaping in the public right-of-way. Landscape plans for the Landscape Maintenance District shall be on separate plans. The applicant shall landscape the median between Barton Road and Newport Street along the frontage of the project site subject to approval by the Community Development and Public Works Departments. The applicant shall prepare and submit a landscape improvement plan for the median area between Barton Road and Newport Road along with a cost estimate for approval by the Public Works and Community Development Departments. A cash deposit shall be provided to cover the costs of the

improvements along with a contingency as determined by the Public Works Department.

- 1.5 All fencing around the yard areas shall be installed with the houses and shall be illustrated on the final landscape plan and shall require review and approval by the Planning Commission prior to issuance of building permits.
- 1.6 The applicant shall file and go through the process of a Precise Plan of Design for approval of the residential design and related amenities commensurate with the conceptual landscape plan. The homes shall be rear-loaded lots that provide vehicular access from the alleys.
- 1.7 The applicant shall be required to set up a Homeowners' Association (HOA) to maintain the common areas and to enforce the CC&R's.
- 1.8 As part of the Precise Plan of Design process, the applicant shall submit proposed street names to the Community Development Department for review by the Historical Commission and the approval of the City Council pursuant to the City of Loma Linda Park and Facilities Names Policy Procedure.
- 1.9 All of the items specified in the Development Agreement shall be made conditions of this project.
- 1.10 Mitigation measures listed in the Mitigated Negative Declaration shall be made conditions of this project.
- 1.11 Architectural styles for the proposed housing shall be a variety of styles approved by the Planning Commission.
- 1.12 The pathway/walkway system shall be built as shown on the tract map layout.
- 1.13 The developer shall provide infrastructure for the Loma Linda Connected Community Program, which includes providing a technologically enabled development that includes coaxial, cable, and fiber optic lines to all outlets in each unit of the development. Plans for the location of the infrastructure shall be provided with the precise grading plans and reviewed and approved by the City of Loma Linda prior to issuing grading permits.
- 1.14 The trash receptacle location and design shall be approved by the waste hauler company and written proof of the approval shall be provided to the Community Development Department prior to issuance of building permits.
- 1.15 The six-foot landscape berm located adjacent to Newport Avenue on the project site shall be removed.

## Noise

- 1.16 The proposed project shall comply with the City of Loma Linda General Plan policy for interior noise standard of 45 dB CNEL and exterior noise standard of 65 dB CNEL.
- 1.17 Double paned windows shall be installed in the first and second floor rooms of the dwelling units within the project.
- 1.18 The City of Loma Linda General Plan policy for a maximum interior noise level of 45 dB CNEL shall be met in all units with windows closed. Therefore, ventilation is needed per the Uniform Building Code standards in order to provide a habitable environment with windows closed. Any fresh air intake should incorporate a minimum of ten (10) feet of straight or curved duct, or six (6) feet plus one sharp 90° bend. Dwelling units in the project requiring mechanical ventilation include units 1-5, 12, 19-23 and 30 (see site plan).
- 1.19 During construction of the site construction activities cease between the hours of 6:00 p.m. to 7:00 a.m.
- 1.20 The applicant shall transplant existing orange trees to be planted in two rows located adjacent to the north project boundary line and to Newport Avenue. The Home Owners Association shall be responsible for maintaining the orange trees in a neat and attractive manner. The maintenance and transplanting of the orange trees shall be completed by a licensed arborist and shall follow the standards of the International Society of Arboriculture. The location and number of trees to be transplanted shall be depicted on the final landscape plan and approved by the Planning Commission prior to the issuance of building permits. The applicant shall provide the Community Development Department with the name and qualifications of the Arborist responsible for transplanting and relocating the orange trees prior to removal of the trees from their original location. If the trees become diseased or die, the Homeowners' Association shall be responsible to replace the trees like in size, number and location within 90 days upon receipt of notice by the City of Loma Linda or as determined by a licensed arborist and the Community Development Department.
- 1.21 The street side exterior walls on lots 5 and 23 shall be removed and the future housing units shall be oriented placing the front yards adjacent to Newport Avenue and the rear yards on the south side of the residence.

### **Cultural Resources**

- 1.22 Full-time monitoring by a licensed archeologist during all grubbing, grading, and utility trenching activities where intact soils below the upper 2 feet of grade are disturbed. Native American tribal monitors (from groups indicated by the NAHC) shall be hired by the project proponent and shall be on site during the grubbing, grading, and utility trenching phases of the project. These monitors shall also be on-site during any archaeological Phase 2 testing or Phase 3 (excavation) work.
- 1.23 Should human remains be discovered during construction activities, all work in the area shall be suspended and the San Bernardino County Coroner shall be notified of the discovery. Work shall not resume until the Coroner has approved resumption of activities.

### **Construction**

- 1.24 Obtain a permit prior to any construction within the City's right-of-way.
- 1.25 Prior to issuance of grading permits, the applicant shall obtain coverage under the NPDES Statewide Industrial Stormwater Permit for General Construction Activities from the State Water Resources Control Board. Evidence that this has been obtained shall be submitted to the City of Loma Linda Public Works Department.
- 1.26 Any abandoned wells on the property or similar structures shall be destroyed in a manner approved by the Public Works Department in accordance with the State of California Department of Health Services.
- 1.27 No commencement of public street work, except rough grading, until dedication for that street has been recorded.
- 1.28 All underground structures, except those desired to be retained, must be broken in, backfilled, and inspected before covering.
- 1.29 Comply with the prevailing City standards and requirements at the time of construction.
- 1.30 Provide, to the maximum extent practicable, for the recycling and reuse of existing materials. Coordinate with the Public Works Department to obtain a list of recyclable/reusable materials and recycling vendors. Provide a report of materials recycled/reused; report to include type of materials and quantities of materials recycled/reused.

- 1.31 The site shall be treated with water a minimum of twice per day, or other soil-stabilizing agent (approved by SCAQMD and RWQCB) daily to reduce PM<sub>10</sub> emissions, in accordance with SCAQMD Rule 403.
- 1.32 Newport Avenue and other proposed on-site streets shall be swept according to a schedule established by the City to reduce PM<sub>10</sub> emissions associated with vehicle tracking of soil off-site. The site access haul road will be watered a minimum of twice daily. Timing may vary depending upon time of year of construction.
- 1.33 Grading operations shall be suspended when wind speeds exceed 25 mph to minimize PM<sub>10</sub> emissions from the site during such episodes.
- 1.34 Chemical soil stabilizers (approved by SCAQMD and RWQCB) shall be applied to all inactive construction areas that remain inactive for 96 hours or more to reduce PM<sub>10</sub> emissions.
- 1.35 Vehicle speeds shall be restricted to less than 15 miles per hour on unpaved portions of the site.
- 1.36 Use of diesel powered equipment is not encouraged. The construction contractor shall select the construction equipment used on-site based on low emission factors and high-energy efficiency. The construction contractor shall ensure that the construction grading plans include a statement that all construction equipment will be tuned and maintained in accordance with the manufacturer's specifications.
- 1.37 The construction contractor shall utilize electric or clean alternative fuel powered equipment where feasible.
- 1.38 The construction contractor shall ensure that the construction grading plans include a statement that work crews will shut off equipment when not in use.
- 1.39 The Architectural Coating (primer and painting) of the homes shall be conducted over a span of 95 days.
- 1.40 During construction of the proposed improvements, only low volatility paints and coatings, as specified in SCAQMD Rule 1113, shall be used. All paints shall be applied using either high-volume, low-pressure (HVLP) spray equipment or by hand.

**2. PUBLIC SAFETY DEPARTMENT**

- 2.1 All construction shall meet the requirements of the editions of the *Uniform Building Code* (UBC)/California Building Code (CBC) and the *Uniform Fire Code* (UFC)/California Fire Code (CFC) as adopted and amended by the City of Loma Linda and legally in effect at the time of issuance of building permit.
- 2.2 Pursuant to UBC Section 904.2.2, as amended in Loma Linda Municipal Code (LLMC) Section 15.08.240, the buildings shall be equipped with automatic fire sprinkler systems meeting the requirements of National Fire Protection Association (NFPA) 13D. Garages shall be included in the design.
- 2.3 No parking shall be permitted on the alleys.
- 2.4 Building addresses shall be as assigned by the Public Safety Department upon submittal of a working copy of the Final Tract Map.
- 2.5 Illuminated building address numbers shall be provided. Addresses shall be a minimum height of four inches and visible for emergency services as approved by the Public Safety Department.
- 2.6 Pursuant to UFC Section 1001.3, plans and specifications for the fire sprinkler systems shall be submitted to Fire Prevention for review and approval prior to installation.
- 2.7 The sprinkler system for each residence shall be NFPA 13D and sprinklers must be located in the attic, small/concealed spaces, and garages.
- 2.8 Future specific code requirements may be applied at the time of plan check and/or field inspections.
- 2.9 The westerly access to the project site shall be used for emergency vehicles only and shall not provide public access. A knox box shall be installed in accordance to the City of Loma Linda Public Safety Department standards and requirements.

**3. PUBLIC WORKS DEPARTMENT**

- 3.1 The Final Map shall be approved by the City Council and recorded with the San Bernardino County Recorder pursuant to the provisions of the State Subdivision Map Act prior to issuance of permits.
- 3.2 Corner cutoffs at all right-of-way lines in accordance with the City standards.

- 3.3 The border is to be shown to centerline of existing perimeter streets, or title explanation required.
- 3.4 At the time of Final Tract Map submittal, submit the following: Traverse calculations (sheets), copies of recorded maps and deeds used as reference and/or showing original land division, tie notes and bench marks referenced, and a current title report. The traverse calculation sheets to show error of closure. Inverse calculations will not be acceptable for plan check review.

- 3.5 Obtain a record slope and access easements, if needed, prior to recordation.

**Soils/Geology/Grading**

- 3.6 Submit preliminary soils report with the Public Works Department prior to recordation of the Final Map.
- 3.7 Submit preliminary soils report with the Public Works Department prior to issuance of grading permits.
- 3.8 Submit grading plans to the Public Works Department for review and approval. Comply with the City of Loma Linda grading standards.
- 3.9 Submit structural design and location for any required walls for review by the Building and Safety Department.
- 3.10 Submit geology report, prepared by a licensed engineering geologist, filed with and approved by the Public Works Department prior to recordation. Submit deposit to cover the costs of the review with the report. An additional deposit may be required or a refund issued when the costs do not match the deposit. Pay review costs in full prior to recordation of the Final Map/Parcel Map.
- 3.11 Soil sampling and analysis of visibly stained soils will be conducted prior to any grading or earthmoving activities. Certification that this work has been completed by a licensed engineering geologist, filed with and approved by the Public Works Department, shall be provided prior to the issuance of any grading permits. Any soil that is determined to contain contaminants in hazardous concentrations will be properly treated and/or removed by a qualified hazardous waste company.
- 3.12 Submit and obtain Public Works Department approval of an erosion control plan and a Water Quality Management Plan to minimize potential increases in erosion and sediment transport and address on-site drainage during short term construction and long term operational activity. Place erosion control measures prior to issuance of building permits. An erosion control deposit will be required prior to recordation of final map or issuance of grading permits which ever occurs first.



- 3.13 All necessary precautions and preventive measures shall be in place for erosion control. These controls shall include: Regular watering for dust control and installation of straw or fiber mats to prevent rain related erosion. Detention basin(s) or other appropriately sized barrier to surface flow must be installed at the discharge point(s) of drainage from the site. Any water collected from these controls shall be appropriately disposed. These measures shall be added as general notes on the site plan and a statement added that the operator is responsible for ensuring that these measures continue to be effective for the duration of the project construction.
- 3.14 Appropriate controls shall be installed to prevent all materials from being tracked off-site by vehicles or other means. These controls may include gravel exits or wash-down areas. Any materials tracked off-site must be removed as soon as possible, but no later than the end of the operation day. This material shall be disposed of at an appropriate disposal site. These measures shall be added as general notes on the site plan and a statement added that the operator is responsible for ensuring that these measures continue to be effective during the duration of the project construction.
- 3.15 Submit original wet signed and stamped grading certifications from the soils engineer and the grading engineer, along with compaction reports to the Public Works Department.
- 3.16 The precise grading plan for the project must be approved by the Planning Commission and the City of Loma Linda prior to issuance of any building permits.
- 3.17 Submit final grade certifications, by the grading engineer, to the Public Works Department prior to issuance of any Certificate of Occupancy.
- 3.18 The applicant shall be required to have a compacted fill mat constructed beneath footings and slabs of the houses. This compacted fill mat will provide a dense, high-strength soil layer to uniformly distribute the anticipated foundation loads over the underlying soils. The construction of this compacted fill mat will allow for the removal of any old fill material, and recompaction of existing upper disturbed soils within building pad areas. The removal and recompaction should extend to the upper five feet of the on site soils and extend a minimum of five feet outside the footing lines.
- 3.19 Soil sampling and analysis of visibly stained soils will be conducted prior to any grading or earthmoving activities. Any soil that is determined to contain contaminants in hazardous concentrations will be properly treated and/or removed by a qualified hazardous waste company.

- 3.20 Testing for termite infestation shall be conducted prior to any grading or earthmoving activities. If termites are found to exist on the site, appropriate extermination shall take place prior to the issuance of building permits. Evidence of a report showing no infestation or fumigation services shall be provided to the Community Development Department.

**Street Improvements**

- 3.21 Improvements: Install or bond: Prior to recording all street, storm drain, sewer, and water improvements for all interior tract streets.
- 3.22 Construct full street improvements (including, but not limited to curb and gutter, asphalt concrete pavement, aggregate base, sidewalk, one drive approach per lot, and street lights) on all interior streets and alleys. Interior street widths to be as follows: 28' curb-to-curb width plus. The widths of the alleys shall be a minimum of 20 feet curb to curb. The widths of the right-of-way shall be as shown on the Tentative Tract Map 16382 date stamped October 28, 2003, and on file with the City of Loma Linda Community Development Department.
- 3.23 All driveways shall be constructed of Portland Cement.
- 3.24 Street light locations, as required, are to be approved by the City of Loma Linda.
- 3.25 Provide for street lighting within the tract as follows:
- a. Street lights installed and energized prior to release for occupancy for any houses, unless otherwise approved by the Public Works Department.
  - b. The design of the street lights shall be approved by the Planning Commission prior to issuance of building permits.
- 3.26 Any streets damaged as a result of new services will be repaired as required by the Public Works Department.
- 3.27 Provide adequate corner sight distance per Caltrans standards at intersection and submit verification of same to the Public Works Department as required in conjunction with plan checking of the street improvement plans.
- 3.28 Integrated sidewalks on the south side of Newport Avenue shall be provided. Sidewalks are to be a minimum of 5 feet in width (measured from the inside of the curb).
- 3.29 Indicate the location of any existing utility facility that would affect construction or improvement plan and profile.

- 3.30 Submit a thorough evaluation of the structural road section, from a qualified soil engineer, to the Public Works Department. Include a recommended street structural section, designed for a service life of 20 years as outlined in Section 600 of the Caltrans Highway Design Manual. The minimum section is 3-1/2" A.C./6" C.A.B. for local streets and 4" A.C./6" C.A.B. for collector streets. The Public Works Department will provide the traffic index.

### **Dedication**

- 3.31 Design public improvements including sidewalk, drive approaches and handicap ramps in accordance with all requirements of the State of California Accessibility Standards, Title 24 California Administrative Code.
- 3.32 Install street name signs and traffic control signs with locations and types approved by the Public Works Department.
- 3.33 Stripe and sign for bike lanes on roadways designated by the City for bike lanes.
- 3.34 "Record Revisions" shall be made to all plans to reflect the changes to the improvements as constructed.
- 3.35 All single lettered lots including areas to be landscaped in front of project boundary walls or fences, along project street frontages and on major slopes annexed to the City's Landscape Maintenance District in accordance with City policy.
- 3.36 Landscape Maintenance District annexation proceedings completed prior to final map approval.
- 3.37 All areas to be landscaped in front of the project boundary walls, within traffic medians, and along the project street frontages shall be annexed to the City of Loma Linda's Landscape Maintenance District in accordance with the City's policy.

### **Drainage**

- 3.38 Prior to any construction activities, the project proponent shall submit a proposed storm drain system designed to handle flows from the anticipated runoff created by this project to the Public Works Department for review and approval.
- 3.39 Provide adequate provisions to intercept and conduct the off-site tributary drainage flow around or through the site in a manner that will not adversely affect adjacent or downstream properties.

- 3.40 The natural drainage courses should be left in their natural state and not occupied or obstructed. Establish adequate building setback lines to preclude the construction of any structures in the overflow area of the natural drainage courses. Elevate structure above the determined flood stage levels, not to impede or deflect flood flows for construction in established flood overflow areas.
- 3.41 Investigate any existing downstream drainage problems and provide the Public Works Department with a detailed drainage analysis showing proposes to handle the drainage flows from and through the site without adversely affecting adjacent or downstream properties.
- 3.42 All site drainage shall be handled on-site and shall not be permitted to drain onto adjacent properties. All lots shall drain into the public streets.
- 3.43 Prior to any construction activities, the project proponent will submit a proposed storm drain system designed to handle flows from the anticipated runoff created by this project to the City for review and approval.
- 3.44 Provide adequate City of Loma Linda Drainage Easements (minimum fifteen [15] feet wide) over the natural drainage courses and/or drainage facilities. Design easements to contain the 100-year frequency storm flow plus bulking and freeboard per approved City criteria.
- 3.45 Obtain flowage easements where diversion or concentration of runoff from the site or drainage facilities dewater onto private property.
- 3.46 Provide adequate building setback margins outside the drainage easements for habitable structures to reduce the possibility of damage due to overflow and erosion.
- 3.47 Obtain permanent drainage improvements per the appropriate Comprehensive Storm Drain Plan to intercept and conduct the larger drainage flows through or around the site.
- 3.48 Design and maintain all streets as water-carrying streets and their water-carrying capacity.
- 3.49 Elevate above the top of curb, or block walls, lots adjacent to water-carrying streets to minimize street flows entering the lots.
- 3.50 Provide engineered plans for all drainage improvements, to the Public Works Department for approval.

- 3.51 Submit additional improvement plans and profiles to the drainage requirements stated herein, for other "on-site" or "off-site" improvements not determined from tentative plans, to the Public Works Department for review
- 3.52 Other flood control requirements: Obtain San Bernardino County Flood Control District approval for discharge into and connection to San Timoteo Creek, as necessary.
- 3.53 An erosion/sediment control plan and a Water Quality Management Plan are required to address on-site drainage construction and operation.
- 3.54 All necessary precautions and preventive measures shall be in place in order to prevent material from being washed away by surface waters or blown by wind. These controls shall include at a minimum: Regular wetting of surface or other similar wind control method, installation of straw or fiber mats to prevent rain related erosion. Detention basin(s) or other appropriately sized barrier to surface flow must be installed at the discharge point(s) of drainage from the site. Any water collected from these controls shall be appropriately disposed of at a disposal site. These measures shall be added as general notes on the site plan and a statement added that the operator is responsible for ensuring that these measures continue to be effective during the duration of the project construction.
- 3.55 Appropriate controls shall be installed to prevent all materials from being tracked off-site by vehicles or other means. These controls may include gravel exits or wash-down areas. Any materials tracked off-site must be removed as soon as possible, no later than the end of the operation day. This material shall be disposed of at an appropriate disposal site. These measures shall be added as general notes on the site plan and a statement added that the operator is responsible for ensuring that these measures continue to be effective during the duration of the project construction.
- 3.56 A complete hydrology study and hydraulic calculations shall be submitted for review and approval by the Public Works Department.

#### **Utilities**

- 3.57 Sewage connection to be to the City of Loma Linda system.
- 3.58 City of Loma Linda to be water purveyor. Development shall include a non-potable water system for irrigation purposes.
- 3.59 Provide all utility services to each lot, including sanitary sewers, water, electric power, cable, gas, and telephone. All utilities are to be underground.

- 3.60 Water mains shall be sized and installed as shown on approved utility plans for domestic service to the development. Submit plans for review and approval.
- 3.61 All fire hydrants and their distribution mains shall be made part of the Public System.
- 3.62 Meter size shall be as shown on the approved set of utility plans.
- 3.63 Service lines from the main and the water meters shall be installed in accordance with City of Loma Linda standards.
- 3.64 City of Loma Linda to be water purveyor. A single water meter is required. On-site water meters can be allowed through the Homeowner's Association. On-site water pipelines and meters shall be private and maintained by Homeowner's Association.
- 3.65 Improvement plans are to include all connections and locations to the City mains for on-site irrigation, including all meter and backflow prevention devices.
- 3.66 All relocation costs for affected utilities will be borne by the developer/property owner.
- 3.67 All sanitary sewers are to be designed to remove the domestic sewage to the existing public sewer mains located on Barton Road and Newport Avenue.
- 3.68 All existing manhole(s) located on Newport Avenue affected by the development shall be adjusted to final grade prior to acceptance of these improvements
- 3.69 Pay for the relocation of any power poles or other existing public utilities as necessary.

#### **4. FEES/PERMITS/BONDING**

- 4.1 Within forty-eight (48) hours of approval of the subject project, the applicant shall deliver to the Community Development Department, check or money order made payable to the **COUNTY OF SAN BERNARDINO** in the amount of \$35.00 (thirty- five dollars) to enable the City to file the appropriate environmental documentation for the project. If within such forty-eight (48) hour period that applicant has not delivered to the Community Development Department the above-noted check, the statute of limitations for any interested party to challenge the environmental determination under the provisions of the California Environmental Quality Act could be significantly lengthened.
- 4.2 Pay appropriate fees for plan check, inspection, GIS map plan update, and microfilming and storage of maps and plans, and other required fees.

- 4.3 Bond all required road, drainage, grading, water, sewer, and landscaping improvements in accordance with City Development Code unless constructed and approved prior to recordation of Final Map. No commencement of public street work until the dedication for that street has been recorded. No releasing of a deposit posted for erosion control and monumentation prior to completion of all on-site construction.
- 4.4 If 5,000 cubic yards or more of earthwork is proposed, a grading bond will be required and grading be supervised in accordance with Section 3311(c) of the Uniform Building Code.
- 4.5 Submit the City form for the agreement for construction of improvements with the City of Loma Linda.
- 4.6 All studies required within these conditions require a deposit to cover the cost of the review of the studies. Additional deposits may be required or a refund issued when the costs do not match the deposits.
- 4.7 Fire Station and Fire Equipment Development Impact Fees shall be assessed to the project at the rates established for Single-Family Residential development in the City's Resolution "Establishing A Schedule Of Development Impact Fees To Finance Capital Facilities Necessitated By New Development" legally in effect at the time of issuance of building permit. Pursuant to LLMC Chapter 3.28, plan check and inspection fees shall be collected at the rates established by City Manager's Executive Order.
- 4.8 Development Impact fees shall be paid to the City of Loma Linda prior to the issuance of the certificate of occupancy.
- 4.9 Submit proof of payment from the City of San Bernardino for sewer capacity fees and Redlands Unified School District to the Community Development Department prior to the issuance of any building permits.

**5. CC&RS**

- 5.1 Prior to approval of the final map, all organizational documents for the project including any deed restrictions, covenants, conditions, and restrictions shall be submitted to and approved by the Community Development Department and City Attorney's office. Costs for such review shall be borne by the subdivider. A copy of the final documents shall be submitted to the Community Development Department after their recordation. CC&Rs shall include but not be limited to the following provisions:

- A. Since the City is interested in protecting the public health and safety and ensuring the quality and maintenance of common areas under control of a Homeowner's Association, the City shall be included as a party to the CC&Rs for enforcement purposes of those CC&R provisions in which the City has interest, as reflected by the following B through M. However, the City shall not be obligated to enforce the CC&Rs.
- B. The requirement that Homeowner's Association bylaws be established.
- C. Provisions for effective establishment, operation, management, use, repair and maintenance of all common areas and facilities including pool areas, recreational facilities, parks, landscaped areas and lots, trails, pathways, walls and fences and paseos.
- D. Membership in any Homeowner's Association shall be inseparable from ownership in individual dwelling units.
- E. Architectural controls shall be provided and shall include but not be limited to provisions regulating exterior finishes, roof materials, fences and walls, accessory structures such as patios, sunshades, trellises, gazebos, awnings, room additions, exterior mechanical equipment, television and radio antenna.
- F. Maintenance standards shall be provided for applicable items listed in Section C above in CC&Rs. Examples of maintenance standards are shown below:
  - (1) All common area landscaping and private lawn areas visible from any public way shall be properly maintained such that they are evenly cut, evenly edged, free of bare or brown spots, free of debris and free of weeds above the level of the lawn. All planted areas other than lawns shall be free of weeds, dead vegetation and debris. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the walkways. All trees shall also be root pruned to eliminate exposed surface roots and damage to sidewalks, driveways and structures.



- (2) Common areas shall be maintained in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to public health, safety or general welfare, or that such a condition of deterioration or disrepair cause harm or is materially detrimental to property values or improvements within the boundaries of the subdivision and Homeowner's Association, to surrounding property, or to property or improvements within the project.
- G. Residents shall not store or park any non-motorized vehicles, trailers regardless of length, or motorized vehicles that exceed 7 feet high, 7 feet wide or 20 feet long in any parking or driveway area except for purpose of loading, unloading, making deliveries or emergency repairs except that the Homeowner's Association may adopt rules and regulations to authorize exceptions.
- H. The Homeowner's Association is responsible for monitoring and enforcing any and all parking regulations as they apply to private property. Individual property owners shall park vehicles in garage spaces. Storage of personal items may occur in the garages only to the extent that vehicles may still be able to be parked within the required garage spaces.
- I. All utility services serving the site shall be installed and maintained underground as depicted on the site plan.
- J. The Homeowner's Association shall be required to file the names, addresses, and telephone numbers of at least one member of the Association Board and where applicable, a Manager of the project before January 1<sup>st</sup> of each year with the City of Loma Linda Community Development Department for the purpose of contacting the association in the case of emergency or in those cases where the City has an interest in CC&R violations.
- K. Perimeter project block walls to be constructed on private property shall be maintained and replaced, if necessary by a Homeowner's Association. This shall not preclude a Homeowner's Association from assessing charges to individual property owner for structural damage to the wall or fence.

- L. No amendment to alter, modify, terminate or change the Homeowner's Association's obligation to maintain the common areas and the project perimeter wall or other CC&R provisions in which the city has an interest, as noted above, or to alter, modify, terminate or change the City's right to enforce maintenance of the common areas and maintenance of the project perimeter wall, shall be effective without the prior written approval of the City of Loma Linda Community Development Department.
- M. Maintenance of all manufactured slopes on individual numbered lots shall be the responsibility of the individual property owners.
- N. All street and alleys shall be maintained by the Homeowners' Association.
- O. All areas not designated as private open space shall be maintained by the Homeowners' Association.

# **Attachment E**

## **Development Agreement**

RECORDING REQUEST BY, AND  
WHEN RECORDED, MAIL TO:

City Clerk  
City of Loma Linda  
25541 Barton Road  
Loma Linda, CA 92354

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EXEMPT FROM FILING FEES. CAL. GOV'T CODE § 6103  
(Space above this line for Recorder's use)

**DEVELOPMENT AGREEMENT**

**NO. DA-03-\_\_**

**BETWEEN**

**FAMILY PEBER ANNUITY, LLC**

**AND**

**THE CITY OF LOMA LINDA**

*(Pursuant to California Government Code Sections 65864 – 65869.5  
and City of Loma Linda Resolution No. \_\_\_\_)*

**August \_\_, 2003**

**Tentative Tract No. 16382-TT**

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## DEVELOPMENT AGREEMENT NO.

This Development Agreement (hereinafter "**Agreement**") is entered into effective as of the date approved by the City of Loma (hereinafter the "**Effective Date**") by the CITY OF LOMA LINDA (hereinafter "**City**"), and FAMILY PEBER ANNUITY, LLC, a California limited liability company doing business in California (hereinafter "**Owner**");

### RECITALS

WHEREAS, Owner owns property located in the eastern part of the City consisting of the property generally located near the [northeast] corner of the intersection of Bryn Mawr and Barton Road in the City of Loma Linda, also referred to as A.P.N. 0293-011-04-0-00, which property (the "**Property**") consists of approximately 7.056 acres. The Property is described on **Exhibit "A"** attached and made a part of this Agreement by this reference; and

WHEREAS, Owner proposes to redevelop (or to cause to be redeveloped) the Property as a single family residential subdivision consisting of approximately fifty (50) houses (the "**Project**"); and

WHEREAS, the Project has received approval for a mitigated negative declaration, general plan amendment, [zone change] and tentative tract map as well as a conditional use permit, Owner has applied to City for a subdivision map and this Agreement (the "**Entitlements**"); and

WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq., of the Government Code; and

WHEREAS, Owner has requested City to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of City; and

WHEREAS, by electing to enter into this Agreement, City shall bind future City Councils of City by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of City; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by City staff, the Planning Commission and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of City and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all actions taken and approvals given by City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the property subject to this Agreement, ensure progressive installation of necessary public and private improvements, provide for public services appropriate to the

development of Owner's development project, and generally serve the purposes for which development agreements under Sections 65864, et seq. of the Government Code are intended; and

WHEREAS, on \_\_\_\_\_, 2003, the Planning Commission of the City of Loma Linda (the "Planning Commission"), after giving notice pursuant to Government Code Sections 65854, 65854.5 and 65856, held a public hearing on Owner's application for this Agreement. On \_\_\_\_\_, 2003, the City Council of the City of Loma Linda (the "City Council"), after providing public notice as required by law, similarly held a public hearing to consider Owner's application for this Agreement; and

WHEREAS, the Planning Commission and the City Council have found that this Agreement and the Project contemplated hereby are consistent with the General Plan, the approved tentative map, related project approvals and all other applicable plans, rules, regulations and official policies of City; and

WHEREAS, in accordance with the requirements of CEQA (Public Resources Code Sections 21000 et seq., appropriate studies, analyses, reports or documents were prepared and considered by the Planning Commission and the City Council. After the Planning Commission and the City Council made appropriate findings, the City Council certified, by Minute Order No. LL-2003-\_\_\_\_ adopted on \_\_\_\_\_, 2003, a Mitigated Negative Declaration (the "Environmental Clearance") for the Project in compliance with CEQA; and

WHEREAS, on \_\_\_\_\_, 2003, the City Council adopted Ordinance No. \_\_\_\_\_ approving this Agreement with Owner.

### COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### 1. DEFINITIONS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "City" means the City of Loma Linda, a political subdivision of the State of California.

1.1.3 "City Council" means the City Council of the City of Loma Linda.

1.1.4 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of residential dwelling units, buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property including, but not limited to:

- (a) General plan;
- (b) Tentative and final subdivision and parcel maps;
- (c) Conditional use permits, variances, site plot plans;
- (d) Zoning amendments;
- (e) Grading and building permits;
- (f) Street and utility improvement permits.

1.1.6 "Development Exaction" means any requirement of City in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests. The term "Development Exaction" or "Exaction" shall not include City administrative, permit processing or other City-wide imposed development fees to cover the estimated or actual costs to City of processing applications for Development Approvals, Subsequent Development Approvals, or costs associated with preparation or implementation of this Development Agreement or for monitoring compliance with any Development Approvals which may be granted or issued pursuant to this Agreement.

1.1.7 "Development Plan" means the Development Approvals and the Land Use Regulations applicable to development of the Property, including but not limited to the Environmental Clearance and Tentative Tract Map No. 16382-TT.

1.1.8 "Effective Date" means the date this Agreement is approved by the City.

1.1.9 "Existing Development Approvals" means all Development Approvals approved or issued prior to the Effective Date and all other Approvals which are a matter of public record on the Effective Date.

1.1.10 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date and all other Development Regulations which are a matter of public record on the Effective Date.

1.1.11 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. "Land Use Regulations" does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:



- (a) The conduct of businesses, professions, and occupations;
- (b) Taxes and assessments;
- (c) The control and abatement of nuisances;
- (d) The granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;
- (e) The exercise of the power of eminent domain.

1.1.12 "Owner" means the persons and entities listed as Owner on page 1 of this Agreement and their successors in interest to all or any part of the Property.

1.1.13 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.14 "Project" means the development of the Property contemplated by the Development Plan as defined herein as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.15 "Property" means the real property described on **Exhibit "A"** to this Agreement and made a part herein by this reference.

1.1.16 "Subsequent Development Approvals" means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.17 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

## 2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the Owner of the fee simple title to the Property.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of seven (7) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement.

### 2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq.) to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and

obligations arising under or from this Agreement as applied to the Property in whole or in part and be made in compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property;

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, Owner shall notify City, in writing, of such sale, transfer or assignment and shall provide City with an executed agreement, in a form reasonably acceptable to City, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of Owner under this Agreement which apply to the Property in whole or in part being sold, transferred or assigned.

2.4.2 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and shall no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of all of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,

(b) A Certificate of Occupancy has been issued for a building on the lot.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or canceled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

(b) Completion of a referendum proceeding or entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(c) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by City or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property prior to the Entitlements approved in connection with this Agreement. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such

termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination.

2.7 Notices.

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below, or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, postage and postal charges prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

If to City:

City of Loma Linda  
Attn: City Clerk  
25541 Barton Road  
Loma Linda, CA 92354  
Facsimile: (909) 799-2890

With copies to:

Stradling Yocca Carlson & Rauth  
Attention: Mark J. Huebsch, Esq.  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Facsimile: (949) 725-4100

and

Director of the Community Development Department  
City of Loma Linda  
25541 Barton Road  
Loma Linda, CA 92354  
Facsimile: (909) 799-2890

If to Owner:

Family Peber Annuity, LLC  
c/o Steven Walker Communities, Inc.  
Attn: Steve Berzansky  
7119 Indiana Avenue  
Riverside, CA 92504  
Facsimile: (909) 784-0844  
Telephone: (909) 784-0840

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative

of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

### 3. DEVELOPMENT OF THE PROPERTY.

3.1 Right to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The City shall issue all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan and consistent with the Entitlements. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation of dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Subsequent Development Approvals. This Agreement shall not prevent City, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations which do not conflict with the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulations not in conflict with the Development Plan.

3.3 Timing of Development. The parties acknowledge that Owner cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of Owner, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that Owner shall have the right to develop the Property in such order and at such rate and at such time as Owner deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Development Plan.

3.4 [Intentionally Omitted.]

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project may require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or
- (b) Increase the density or intensity of use of the Property as a whole; or

- (c) Increase the maximum height and size of permitted buildings; or
- (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or
- (e) Constitute a project requiring a subsequent or environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Fiber Optic Network Installation. If, and to the extent, Owner constructs and/or installs a fiber optic network ("**the Network**") throughout all or a portion of the Project, Owner shall be subject to the following terms and conditions:

(a) The Network shall be installed exclusively in easements dedicated to the City and/or dedicated for public utility compatible uses and purposes. To the extent that Owner installs the Network, or any portion thereof, in locations which have not been dedicated to the City and/or dedicated for public utility compatible uses and purposes, it shall provide a dedicated easement to the City coterminous with the location of the Network.

(b) The property in which the Network, or any portion thereof, is located shall be deemed "public rights-of-way" within the meaning of Section 621 of the Cable Communications Policy Act of 1984, as amended.

(c) Owner shall join Underground Alert and provide proper notification pursuant thereto in the event of any excavation relating to the Network.

(d) Owner shall install, at its sole expense, a separate conduit of no less than three (3) inches in diameter in all locations where the Network is located which separate conduit shall be dedicated to the City for its exclusive use (the "**City Conduit**"). Owner shall, in addition, install and dedicate sufficient connection points, manholes, potholes, and other appurtenances as designated by the City in writing to allow the City to reasonably access and utilize the City Conduit.

(e) Owner shall install and dedicate to the City, at its sole cost, twelve (12) strands of unactivated dark fiber throughout the entirety of the Network for remote water meter reading purposes and other municipal purposes (the "**City Fiber**"). The City Fiber shall be connected to all residential units and business establishments located within the Project and shall be accessible to the City from a central location to be designated by the City in writing.

(f) In the event that the Owner, or any successor or assignee thereof, intends to provide or does provide any form of video services on the Network, it shall apply for and obtain, prior to the provision of such video services a cable television franchise from the City and shall be bound by the City's cable television ordinance in effect at said time. Owner agrees not to provide, or allow to be provided, any form of video services on the Network prior to obtaining a cable television franchise from the City.

(g) In the event that Owner, or any successor or assignee thereof, intends to provide or does provide any services which are not video services on the Network, it shall comply with the City's telecommunications ordinance in effect at said time. Owner, its

successors and assigns, agrees to be bound by any current or future telecommunications ordinance and agrees not to provide, or allow to be provided, any form of non-video services upon the Network without complying with the telecommunications ordinance, and the provisions thereof, including but not limited to, the payment of a franchise fee or license fee to the extent required by the telecommunications ordinance.

### 3.7 Reservations of Authority.

3.7.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property.

(a) Processing fees and charges imposed by City to cover the estimated actual costs to City of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations governing construction standards and specifications including, without limitation, the Uniform Building, Plumbing, Mechanical, Electrical, and Fire Codes as adopted and amended by the City of Loma Linda.

(d) Regulations which may be in conflict with the Development Plan but which are reasonably necessary to protect the public health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide Owner with the rights and assurances provided under this Agreement.

(e) Regulations which are not in conflict with the Development Plan. Any regulation, whether adopted by initiative or otherwise, imposing a development moratorium or limiting the rate or timing of development of the Property shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the Development of the Property.

3.7.2 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.8 Referenda and Moratorium. It is the express intent of City and Owner that as of the date of this Agreement, this Agreement is a legally binding contract which shall, to the extent permitted by law, prevail over the provisions of any subsequently enacted moratorium, statute, ordinance, limitation or other measure, whether or not enacted by City, or by voter initiative or referendum, and whether or not such initiative, moratorium, referendum, statute, ordinance, limitation or other measure relates, in whole or in part, to the rate, timing, sequencing or phasing of

the development or construction of all or part of the Project or the Development Plan or affects Development Approvals which are issued by City.

In the event any initiative, moratorium, referendum, statute, ordinance, limitation or other measure is enacted subsequent to the Effective Date that would otherwise modify the development rights vested pursuant to this Agreement, Owner reserves the right to challenge any such enactment in a court of law should it become necessary to protect the development rights vested in Owner pursuant to the terms and conditions of this Agreement. Should any initiative or referendum be enacted which would preclude or make not feasible construction of all or any part of the Project, and should such enactment be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Agreement, Owner shall have no recourse against City for any damage Owner might sustain as a result thereof so long as the City did not participate in nor support any such initiative or referendum, except City shall provide for and timely implement an equitable program to reimburse Owner for unused fees and for an equitable reimbursement for Public Improvements or fees theretofore made but not required by the extent of development as of the date of the enactment.

3.9 Exactions. All further applications for Development Approvals contemplated by this Agreement, or made in connection with the development, construction, use or operation of the Project hereunder, shall be processed in accordance with the Existing Rules and the standards, terms and conditions of this Agreement, except that (a) City shall not impose thereunder any further Exactions other than those called for under the Existing Approvals and/or as permitted under the provisions of this Agreement, and (b) such applications and Development Approvals thereunder shall not result in the imposition upon Owner of any additional requirements, other than those already imposed pursuant to the Development Approvals, or otherwise permitted under the provisions of this Agreement.

3.10 Tentative Subdivision Map Extension. Tentative subdivision map(s), heretofore or hereafter approved in connection with development of the Property, shall be granted an extension of time for up to the seven (7) year term of this Agreement.

3.11 City Fees.

3.11.1 Payment of Fees. Owner shall pay all City administrative, permit processing and other city-wide imposed development fees in accordance with the master City Fees Schedule in effect at the time fees are paid.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs which will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance that private benefit conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Agreement Fee. Owner agrees to pay to City in connection with each residential dwelling built within the Project the corresponding amounts as set forth in **Exhibit "C"**, including escalation, as a Development Agreement Fee; Exhibit "C" is attached and made a part of

this Agreement by this reference ("Development Agreement Fee Schedule"). The Development Agreement Fee shall be paid, on a per-unit basis as shown at Exhibit "C", within two (2) business days after final building inspection or if certificate(s) of occupancy are issued, then concurrent with issuance of such certificate(s).

4.3 Street Names. All streets and public facilities located in the Development shall require approval by the City Department of Community Development.

5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The Director of the Community Development Department shall review this Agreement on or before the first anniversary of the Effective Date, in order to ascertain the good faith compliance by Owner with the terms of the Agreement. Owner shall submit a Monitoring Report, in a form acceptable to the Director of the Community Development Department, within thirty (30) days after written notice from the Director of the Community Development Department.

5.2 Procedure.

(a) During either a periodic review or a special review, Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on Owner.

(b) Upon completion of a periodic review, the Director of the Community Development Department shall submit a report to the City Council setting forth the evidence concerning good faith compliance by Owner with the terms of this Agreement and his or her recommended finding on that issue.

(c) If the City Council finds on the basis of substantial evidence that Owner has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

(d) If the City Council makes a preliminary finding that Owner has not complied in good faith with the terms and conditions of this Agreement, the City Council may modify or terminate this Agreement as provided in Section 5.3 and Section 5.4. Notice of default as provided under Section 6.3(b) of this Agreement shall be given to Owner prior to or concurrent with, proceedings under Section 5.3 and Section 5.4 or Section 6.5.

5.3 Proceedings Upon Modifications or Termination. If, upon a finding under Section 6.2, City determines to proceed with modification or termination of this Agreement, City shall give written notice to Owner of its intention so to do. The notice shall be given at least ten (10) calendar days prior to the scheduled hearing and shall contain:

(a) The time and place of the hearing; and

(b) A statement as to whether or not City proposes to terminate or to modify the Agreement; and

(c) Such other information as is reasonably necessary to inform Owner of the nature of the proceeding.



5.4 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, Owner shall be given an opportunity to be heard. Owner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. If the City Council finds, based upon substantial evidence, that Owner has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the California Code of Civil Procedure.

5.5 Certificate of Agreement Compliance. If, at the conclusion of a Periodic Review, Owner is found to be in compliance with this Agreement, City shall, upon request by Owner, issue a Certificate of Agreement Compliance ("Certificate") to Owner stating that after the most recent Periodic Review and based upon the information known or made to the Director of the Community Development Department and the City Council that (1) this Agreement remains in effect and (2) Owner is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance. Owner may record the Certificate with the County Recorder.

## 6. DEFAULT AND REMEDIES.

6.1 Enforcement. Unless amended or canceled as herein provided, this Agreement is enforceable by any party to it notwithstanding a change in the applicable general or specific plan, zoning, subdivision, or building regulations adopted by the City which otherwise would alter or amend the rules, regulations, or policies governing permitted uses of the Property, density, design, improvement, and construction standards and specifications applicable to the Development Plan.

6.2 Events of Default. A party to this Agreement is in default under this Agreement upon the happening of one or more of the following events or conditions:

(a) If a warranty, representation or statement made or furnished by Owner to City or City to Owner is false or proves to have been false in any material respect when it was made;

(b) A finding and determination by City or Owner that upon the basis of substantial evidence the City or Owner has not complied in good faith with one or more of the terms or conditions of this Agreement.

### 6.3 Procedure Upon Default.

(a) Upon the occurrence of an event of default, the non-defaulting party may terminate or modify this Agreement in accordance with the procedures set forth in Subsection 6.3(b) below.

(b) The party claiming default shall provide written notice to the other party specifying the event of default and the steps the other party must take to cure the default. If, within thirty (30) days after the effective date of such notice, the other party does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the other party shall be deemed to be in default under the terms of this Agreement.

(c) All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing development agreements are available to the parties to pursue in the event there is a breach.

6.4 Owner's Default. In the event of any default by Owner, in addition to any other remedies which may be available to City, whether legal or equitable, City shall be entitled to retain any fees, grants, dedications or improvements to public property which it may have received prior to Owner's default without recourse from Owner or its successors or assigns.

6.5 Indemnity. Owner shall indemnify and hold City, its officers, agents and employees and independent contractors free and harmless from any claims or liability based or asserted upon any act or omission of Owner, its officers, agents, employees, subcontractors and independent contractors for property damage, bodily injury, or death (Owner's employees included) or any other element or damage of any kind or nature, relating to or in any way connected with or arising from the activities provided in this Agreement. Owner shall defend, at its expense, including payment of attorneys' fees, City, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. City may in its discretion participate in the defense of any such legal action.

6.6 Environmental Indemnity. Owner shall defend, indemnify and hold City, its officers, agents, employees, and independent contractors free and harmless from any claims or liability based upon or arising from the presence of any Hazardous Substance on any of the Property located in the Project. As used herein, "Hazardous Substance" shall mean any "hazardous substances," "toxic substance," "hazardous waste," or "hazardous material" as defined in one or more Environmental Laws, whether now in existence or hereinafter enacted; provided, however, that "Hazardous Substance" shall (i) include petroleum and petroleum products (other than naturally occurring crude oil and gas) and (ii) include radioactive substances which are not naturally occurring, and (iii) include any friable or non-friable asbestos or asbestos-containing material contained in or affixed to a structure existing on the Property or otherwise located in, on or about the Property as of the date of this Agreement. As used herein, "Environmental Laws" shall mean any and all federal, state, municipal and local laws, statutes, ordinances, rules, and regulations which are in effect as of the date of this Agreement, or any and all federal, or state laws, statutes, rules and regulations which may hereafter be enacted and which apply to the Property or any part thereof, pertaining to the use, generation, storage, disposal, release, treatment or removal of any Hazardous Substances, including without limitation, the Comprehensive Environmental Response Compensation Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., ("RCRA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and California Health and Safety Code Section 25100, et seq. Owner acquired the Property pursuant to a Real Property Purchase and Sales Agreement entered into with the Kidd Family Trust ("Prior Owner") as the Seller dated as of May 13, 2002 ("**the Purchase Agreement**"). To the extent that Owner is or may be entitled to defense or indemnification from Prior Owner in connection with the presence of any such Hazardous Substances on the Property as provided in the Purchase Agreement, Owner shall assert any such defenses or indemnification rights on behalf of City, its officers, agents, employees, and independent contractors, or assign such rights to City, at City's option. However, Owner's obligation to defend, indemnify and hold harmless City and its officers, employees, agents or independent contractors from any claims or liability in connection with or arising from the presence of any Hazardous Substance on the Property or any portion thereof shall not be in any way limited or eliminated by the terms of the Purchase Agreement, and Owner's obligation hereunder shall survive

the termination of this Development Agreement, no matter how caused. Notwithstanding anything herein to the contrary, Owner shall have no obligation to indemnify the City as herein provided with respect to any Hazardous Substances which are proven by Owner to have been first brought onto the Property subsequent to the sale by the Owner of the Property, or the affected portions thereof.

7. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Owner with representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City or any default by Owner in the performance of Owner's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have any obligation or duty under this Agreement to perform any of Owner's obligations or other affirmative covenants of Owner hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Owner is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code.

8.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings, or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

8.3 Severability. If any terms, provisions, covenants or conditions of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provisions of Development of the Property set forth in Section 3 and the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and City and Owner would not have entered into this Agreement but for such provisions and if determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

8.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed by interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

8.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

8.6 Singular and Plural. As used herein, the singular of any word includes the plural.

8.7 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

8.8 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

8.9 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

8.10 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the terms of this Agreement shall not be extended under any circumstances for more than two (2) years as a result of any such force majeure event.

8.11 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed by such benefited party.

8.12 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

8.13 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

8.14 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

8.15 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Owner is that of a government entity regulating the development of private property and the Owner of such property.

8.16 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

8.17 Authority to Execute. The person(s) executing this Agreement on behalf of Owner warrants and represents that he, she or they has/have the authority to execute this Agreement on behalf of his, her or their corporation, partnership or business entity and warrants and represents that he, she or they has/have the authority to bind Owner to the performance of its obligations hereunder.

8.18 Cooperation. City agrees that it shall accept for processing and promptly take action on all applications, provided they are in a proper form and acceptable for required processing, for discretionary permits, tract or parcel maps, or other land use entitlements for development of the Project in accordance with the provisions of this Agreement. City shall cooperate with Owner in providing expeditious review of any such applications, permits or land use entitlements and, upon request and payment of any costs and/or extra fees associated therewith by Owner, City shall assign such review to Project planner(s), building inspector(s), other staff personnel and/or contract planning or engineering consultants as required to insure the expeditious review, processing and completion of the Project.

*[Signature page follows]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

Dated: \_\_\_\_\_

THE CITY OF LOMA LINDA, a municipal  
corporation of the State of California

By: \_\_\_\_\_  
Mayor

ATTEST:

“CITY”

\_\_\_\_\_  
Pamela Byrnes O’Camb. City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Stradling Yocca Carlson & Rauth  
By: Mark J. Huebsch, Esq.

FAMILY PEBER ANNUITY, LLC, a California  
limited liability company

By: \_\_\_\_\_

By: \_\_\_\_\_

“OWNER”

*ALL SIGNATURES ARE TO BE ACKNOWLEDGED  
BEFORE A NOTARY PUBLIC*

STATE OF CALIFORNIA

)

) ss.

COUNTY OF \_\_\_\_\_

)

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public.  
(Print Name of Notary Public)

personally appeared \_\_\_\_\_

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature Of Notary

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

#### CAPACITY CLAIMED BY SIGNER

#### DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual  
☐ Corporate Officer

\_\_\_\_\_  
Title(s)

\_\_\_\_\_  
Title Or Type Of Document

- ☐ Partner(s)      ☐ Limited  
                         ☐ General  
☐ Attorney-In-Fact  
☐ Trustee(s)  
☐ Guardian/Conservator  
☐ Other: \_\_\_\_\_

\_\_\_\_\_  
Number Of Pages

Signer is representing:  
Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
Date Of Documents

\_\_\_\_\_  
Signer(s) Other Than Named Above



STATE OF CALIFORNIA

)

) ss.

COUNTY OF \_\_\_\_\_

)

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
(Print Name of Notary Public)

personally appeared \_\_\_\_\_

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature Of Notary

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

#### CAPACITY CLAIMED BY SIGNER

- ☐ Individual  
☐ Corporate Officer

\_\_\_\_\_  
Title(s)

#### DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_  
Title Or Type Of Document

- ☐ Partner(s) ☐ Limited  
☐ General

- ☐ Attorney-In-Fact  
☐ Trustee(s)  
☐ Guardian/Conservator  
☐ Other: \_\_\_\_\_

\_\_\_\_\_  
Number Of Pages

Signer is representing:  
Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
Date Of Documents

\_\_\_\_\_  
Signer(s) Other Than Named Above

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

[To Come]

**EXHIBIT "B"**  
**LAND USE MAP**

**EXHIBIT "C"**

**DEVELOPMENT AGREEMENT FEE SCHEDULE**

Number of bedrooms	Per unit affordable payment fee
1-4 br	\$3,612
5 br	\$4,462
6 br	\$5,739
7 or more br	\$7,015

All amounts set forth shall increase three percent (3%) as of the first anniversary of the Effective Date and each anniversary thereafter.

# **Attachment F**

**October 1, 2003  
Planning Commission Staff Report**

# Staff Report

# City of Loma Linda

From the Department of Community Development

PLANNING COMMISSION MEETING OF OCTOBER 1, 2003

TO: PLANNING COMMISSION

FROM: DEBORAH WOLDRUFF, AICP, DIRECTOR  
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: ZONE CHANGE (ZC) NO. 02-06, TENTATIVE TRACT MAP (TTM) NO. 16382, AND DEVELOPMENT AGREEMENT- A REQUEST TO CHANGE THE ZONING FROM AGRICULTURAL (A-1) AND MULTIPLE FAMILY RESIDENCE (R-3) TO PLANNED COMMUNITY (PC) ZONE; AND, TO SUBDIVIDE THE PROPERTY INTO 50 SINGLE FAMILY RESIDENTIAL LOTS ON A 7.05 ACRE SITE LOCATED ON THE SOUTH SIDE OF NEWPORT AVENUE WEST OF BRYN MAWR AVENUE AND SOUTH OF BARTON ROAD.

## SUMMARY

The applicant proposes a Zone Change to Planned Community (PC) zone and a subdivision to create fifty single-family lots, and 32,172 square feet of common open space. The property is designated as Medium Density Residential (5 to 10 dwelling unit/acre) on the General Plan Land Use Map and is zoned both Multiple Family (R-3) and Agricultural (A-1).

A Precise Plan of Design (PPD) application for the housing and site design is not included as part of this request before the Planning Commission. However, a PPD will be submitted at a later date that focuses on the design and aesthetics of the proposed housing units. The applicant has submitted preliminary designs, floor plans, and landscaping which will be discussed later in the Analysis section of the report. The project also includes the removal of most of the citrus trees on the property with the exception of the first two rows adjacent to Newport Avenue, which will be incorporated into the design layout of the project.

The project site is located in the Inland Valley Development Agency (IVDA) Redevelopment Project Area and as such, the project is required to provide affordable housing. The applicant and the City of Loma Linda, acting on behalf of the IVDA, will enter into a Development Agreement to assist in the production of future, affordable housing units throughout the City.

CITY OF LOMA LINDA  
PLANNING COMMISSION

APPROVED DENIED  
CONTINUED

TO:

AT THE MEETING OF:

Oct. 1, 2003  
BY: Jocelyne Larabie  
PLANNING COMMISSION SECRETARY

## **RECOMMENDATION**

Staff recommends that the Planning Commission recommend the following actions to the City Council:

1. Approve and adopt the Revised Mitigated Negative Declaration (Attachment A);
2. Approve and adopt Zone Change No. 02-06 and the Planned Community Document for "The Orchard" (Attachment B), based on the Findings;
3. Approve Tentative Tract Map (TTM) No. 16382 based on the Findings, and subject to the Conditions of Approval (Attachment C); and,
4. Approve the Development Agreement (Attachment D).

## **PERTINENT DATA**

Applicant:	Steven Walker Homes/Enterak Land LLC
General Plan:	Medium Density Residential (5 to 10 du/acre) (Draft General Plan- Medium Density Residential)
Zoning:	Multiple Family Residential (R-3)/Agricultural (A-1)
Site:	7.05 acres located on the south side of Newport Avenue, south of Barton Road, west of Bryn Mawr and east of Mountain View
Topography:	Mostly flat and gently sloping to the northeast
Vegetation:	Existing citrus grove

## **BACKGROUND**

This item was continued without discussion from the Planning Commission meeting on September 10, 2003 to October 1, 2003. Staff requested that the Planning Commission continue the item to allow for additional information to be provided on the Tentative Tract Map, provide a Planned Community document for the zone change request and to modify the environmental documentation pertaining to noise mitigation. Since the meeting on September 10, 2003, the applicants have submitted a revised Tentative Tract Map (Attachment F) and a Planned Community document (Attachment B), which outlines the goals, objectives, policies and development standards for the proposed Planned Community zoning district. Staff has also re-evaluated information provided from a supplement noise study which modifies the design of the project. These changes are discussed below under Noise Impacts.

Please note that the October 1, 2003 staff report is a revised version of the September 10, 2003 staff report, which should be discarded.

## **SITE CHARACTERISTICS AND SURROUNDING PROPERTY**

The project site has been cultivated as a citrus grove as far back as 1938. No structures exist on the project site. The properties to the south are single family residential. The property to the east is the Bryn Mawr Post Office. North across Barton Road is the City Corporate Yard and a public storage facility (Attachment E- Vicinity Map). The area to the west is developed with the Postal Annex building and the Edison Easement.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) STATUS**

On September 25, 2003, a revised Notice of Intent (NOI) to adopt a Mitigated Negative Declaration Environmental Impact (Attachment A) was prepared and issued for public review. The mandatory 20-day public review began on September 26, 2003 and ends on October 15, 2003. This will allow the required review period prior to any City Council action to adopt the Mitigated Negative Declaration. The Initial Study discusses potential environmental impacts of the project and appropriate mitigation measures. All of the potential impacts that were identified in the Initial Study can be mitigated to below a level of significance and mitigation measures are included as conditions of approval of the project. Therefore, the project can be approved with a Mitigated Negative Declaration in accordance with the requirements of CEQA.

## **ANALYSIS**

### **Project Description and Site Design**

The project proposes a maximum of fifty (50) single-family residential units on 7.05 acres for an overall density of seven units per acre (Attachment E). This density is consistent with the General Plan Medium Density designation (which allows 5 to 10 dwelling units per acre). The future residential development will include four and five bedroom units. The proposed project will be defined as a small lot subdivision with lot sizes ranging from 2,880 to 6,042 square feet.

### **Development Issues**

The Planning Commission has identified several issues that it would like to see addressed in all new residential developments. Some of these issues can be found in Section 3.1.9.1 under the Guiding Policy for Residential Development in the City's Draft General Plan document. Basically, this involves quiet, safe streets, parks located at the center of the neighborhood they serve, provision of neighborhood pathways, garages oriented so that they do not face the street, clustering of residential buildings



around open space and/or recreational amenities in small lot subdivisions. The applicant has addressed these issues in the following manner:

#### Traffic and Circulation

The development proposes a private, gated community (see Attachment F) with two road way entrances off of Newport Avenue. The westerly entrance will be a 28-foot wide private roadway. The easterly entrance will be a 32-foot wide private roadway. Together, the two private roads will connect within the project site to form a loop road. Stop signs will be placed at each access from the site. Guest parking is provided with 27 spaces located next to the common open space and additional street parking is available but limited to one side of the street on both entry roads.

The traffic study for the proposed tract map does not identify the need for any mitigation measures. The Level of Service (LOS) for the intersection of Barton Road and Newport Avenue will remain at LOS B with the addition of the development. The project is expected to generate 479 daily trips. The Public Safety Department has reviewed the site layout and affirmed that they will be able to get their emergency vehicles and fire apparatus/equipment into the community.

#### Community Design

The future homes are designed with "rear loaded" lots, providing access to the two car garages from a rear alley. These units contain two stories and front porches will be included on every house.

The proposed tract and future residential community will require the establishment of a Homeowners Association (HOA) as well as the development and recordation of appropriate Covenants, Conditions and Restrictions (CC & R's).

The layout of the project involves thirty houses facing north and south and twenty facing east and west. In consideration of this layout, attention has been given to the need for energy efficiency with orientation and placement. According to the developer, double paned windows will be installed on the first and second floor rooms of all dwelling units within the project. The project will be required to meet all of the energy efficiency requirements of the California Building Code Title 24, as applicable.

Proposed amenities within the development include a pool, spa, and pedestrian pathways, which will highlight the 32,000 square feet of common area/open space at the center of the community. The pathways will provide greater connectivity throughout the community and are an integral part of the design to encourage pedestrian activity and social interaction within the gated community.

### **Noise Impacts**

The noise study indicates that the combined noise level of the existing traffic and railroad, at the project frontage is 66.6 dB CNEL. To comply with the Loma Linda General Plan policy of 65 dB CNEL for maximum exterior noise levels, a sound buffer be located adjacent to the project frontage along Newport Avenue is necessary. The applicant is proposing to place a six foot high landscape berm and transplant two rows of the existing orange trees in front of the berm. Staff has determined that the two rows of orange trees would be sufficient to bring the noise level down at least 1.6 dB CNEL to comply with the maximum noise level (Condition No. 1.22). Removing the proposed landscape berm would also provide openness to the project frontage, which promotes interaction between the street and the front yards of the residences. Condition No. 1.16 requires that the landscape berm be removed. A six-foot wall would still be provided around the rear yards of the two homes that have side yards abutting the project frontage along Newport Avenue.

### **Future Design**

While a PPD is not part of the request before the Planning Commission at this time, the applicant has provided colored renderings, floor plans and preliminary landscape plans for the project (see Attachment G). The applicant has made an effort to emphasize the livable, walkable communities concepts that include front porches, walkways and a large common area with recreational amenities.

The common area will provide gathering spots for community uses and be beneficial to the residents. One mail kiosk is provided within the development. The applicant is working to obtain a letter from Waste Management for service to the project site. Development standards for the Planned Community project will be part of the PPD submittal provided by the applicant at a later date.

An added component to the design of the proposed tract map is the Condition of Approval that the proposed community be prewired to host coaxial, cable, and fiber optic installation for each unit. This is a new City requirement that will ensure new residences are equipped with links to meet the latest communications/technological advances. Homes that are prewired in this manner are commonly referred to as "smart homes". The added technology has many advantages including increased marketability of the units.

Items to be discussed at the PPD stage include the requirement for usable porches in the front. On corner lots, consideration should be given to wrap around porches on the street side elevation. Additionally, consideration of architectural enhancements on all four sides of elevation will be needed. The applicant has stated that a centralized mailbox facility will be provided for residents to receive mail. A detailed plan will be

required showing fence locations, design and height as well as conceptual landscape plans prepared by a state licensed landscape architect.

### **Development Agreement**

The proposed project is located in the Inland Valley Development Agency (IVDA) Redevelopment Project Area. As a result, an affordable housing component is required of the builder. The option is to provide fifteen percent of the units as affordable or to enter into a development agreement with the City to assist in the production of future, affordable housing units throughout the City. The applicant has chosen the option for a Development Agreement (see Attachment C).

### **PUBLIC COMMENTS:**

No written or verbal comments have been received or been forthcoming by the City as of September 25, 2003. Staff has been informed that IVDA and Omnitrans will be sending agency comment letters. Comments received from City departments have been addressed through revisions to the project design and Conditions of Approval.

Former Planning Commissioner Tricia Thrasher came to the public counter during the last week of August to review the project file and may have comments prior to the meeting date.

### **Zone Change Findings**

Changes to the zoning map are considered legislative acts and do not require findings. State law does require that the zoning be consistent with the General Plan. The General Plan designates the subject property as Medium Density Residential. The Zone Change request from Agriculture and Medium Density Residential to the proposed "Planned Community" (PC) zoning district for residential development is consistent the existing General Plan Land Use designation. The site is suitable for medium residential development under the PC zone and the project would not cause substantial environmental damage or be detrimental to the public welfare. The proposed PC zone would limit this area to residential use and ancillary uses and amenities that would support a medium density residential development, such as a recreation center, community pool and recreational facilities, parks and trails. The Planned Community Document for "The Orchard" would provide the goals, objectives, policies and development standards for the project. This document could be modified by the Planning Commission during the PPD phase of the project entitlement to incorporate more specific development standards.

### **Tentative Tract Map Findings**

1. *That the proposed map is consistent with the applicable general plan and zoning designations.*

The project includes a Zone Change to PC in order to accommodate the small lot subdivision and the future submittal of a Precise Plan of Design. The proposed density of seven units per acre is consistent with the General Plan designation of Medium Density, which allows 5 to 10 dwelling units per acre.

2. *The design or improvement of the proposed subdivision is consistent with the applicable general plan and zoning designations.*

The project complies with the General Plan Land Use designation and was designed in accordance with the Municipal Code, Chapter 17.70 Planned Community District zone. The development of this site with the appropriate residential uses shall enhance the quality of the surrounding neighborhood and the City. This new community will offer much needed new housing opportunities to the area.

3. *The site is physically suitable for the type of development proposed.*

The project shall not disrupt or divide the physical arrangement in the immediate vicinity. The site has been used for agricultural purposes since 1938. The use of land for agricultural purposes is no longer economically viable and development of single-family residences will be compatible with the existing and future uses in the area to the south and east. The project will not result in impacts to the established community. The project allocates 32,172 square feet to common area/open space with amenities such as a pool and spa and pedestrian pathways.

4. *The site is physically suitable for the proposed density of development.*

The project is compatible with the adjacent residential development. The proposed density of seven units per acre is consistent with the General Plan Medium Density designation of which allows for a range of 5-10 units per acre.

5. *The design of the subdivision is not likely to cause substantial environmental damage or substantially and unavoidably injure fish and wildlife or their habitat.*

There is no natural vegetation or wildlife present on the site, and there is no undisturbed area remaining on the site. Therefore, development of the site shall not cause any substantial environmental damage or substantially and unavoidably injure fish and wildlife or their habitat.

6. *The design of the subdivision is not likely to cause serious public health problems*

The design of the subdivision and the end use of the 50 single-family homes will not cause any serious public health problems. The design is sensitive to the historical significance of citrus production in the area in that it incorporates two rows of the existing trees adjacent to Newport Avenue into the design. The project includes the development of a pathway/walkway system and recreational amenities to facilitate physical activity for the residents. The Mitigated Negative Declaration does not identify any impacts that could cause serious public health problems.

7. *The design of the subdivision will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.*

Access to the site is provided from Newport Avenue. The two entrances into the site allow full access without impeding the through traffic. The access and streets are adequate for emergency vehicles and large fire apparatus. The project creates a pedestrian pathway system through the 7.05-acre site. The design of the proposed subdivision does not conflict with any easements such as those created for irrigation or the conveyance of utilities. The nearest easement is the Edison easement, which is immediately west of the United States Postal Service Annex (Attachment E-Vicinity Map).

## CONCLUSION

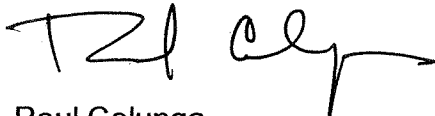
The proposed project conforms with the City's Subdivision regulations and the PC zoning standards. The zone change from Agriculture (A-1) Multiple Family Residence (R-3) to PC allows the flexibility to develop a residential community that can be master planned for the proposed project site. A small lot subdivision of 50 new homes and 32,172 square feet of common area open space will go far in providing new housing units to local residents, students, families, and others. The proposed subdivision layout is sensitive to the historical significance citrus production in the area and compatible with the surrounding development (existing and future). The granting of this Zone Change, Tentative Tract Map, and Development Agreement would not be detrimental to the public welfare or injurious to the properties in the vicinity.

The Mitigation Measures listed in the Initial Study will minimize the potential environmental impacts and their implementation is the responsibility of the subdivider. They have been made part of the Conditions of Approval.

Respectfully Submitted,



Lori Lamson  
Senior Planner, and



Raul Colunga  
Assistant Planner

**ATTACHMENTS**

- A. Negative Declaration (NOI/Initial Study)
- B. Planned Community Document for "The Orchard"
- C. Conditions of Approval
- D. Development Agreement
- E. Vicinity Map
- F. Proposed Tentative Tract Map 16382
- G. Conceptual Floor Plans, Architectural Elevations and Landscape Plan

Projecttfiles/tractmap/ttm16382/10-1-03swhomes.sr

# **Attachment G**

**October 1, 2003  
Planning Commission Draft Minutes**

# Minutes

# City of Loma Linda

*Department of Community Development*

## Planning Commission

A regular meeting of the Planning Commission was called to order by Chair Randy Neff at 7:05 p.m., **Wednesday, October 1, 2003**, in the City Council Chambers, 25541 Barton Road, Loma Linda, California.

**Commissioners Present:** Randy Neff, Chair  
Mary Lee Rosenbaum, Vice Chair  
Eric Essex  
Michael Christianson, Alternate

**Commissioners Absent:** Marilyn Roberts  
Shakil Patel

**Staff Present:** Deborah Woldruff, Director, Community Development Dept.  
Lori Ludi, Senior Planner  
Raul Colunga, Assistant Planner  
Jeff Peterson, Associate Engineer, Public Works Dept.  
Jocelyne Larabie, Administrative Secretary

### ITEMS TO BE DELETED OR ADDED

There were no items to add or delete.

### ORAL REPORTS/PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

No oral reports were presented.

### CONTINUED ITEMS – PUBLIC HEARING

**PC-03-21 - ZONE CHANGE (ZC) NO. 02-06, TENTATIVE TRACT MAP (TTM) NO. 16382, AND DEVELOPMENT AGREEMENT - A Request to Change the Zoning from Agricultural (A-1) and Multiple Family Residence (R-3) to Planned Community (Pc) Zone on a 7.05 acre Site Located on the South Side of Newport Avenue West Of Bryn Mawr Avenue and South of Barton Road, and to Subdivide the Property into 50 Single Family Residential Lots.**

Assistant Planner Raul Colunga presented the staff report.

The applicant proposes a Zone Change to Planned Community (PC) zone and a subdivision to create fifty single-family lots, and 32,172 square feet of common open space. The property is designated as Medium Density Residential (5 to 10 dwelling unit/acre) on the General Plan Land Use Map and is zoned both Multiple Family (R-3) and Agricultural (A-1). A PPD will be



submitted at a later date that would focus on the design and aesthetics of the proposed housing units. The applicant has submitted preliminary designs, floor plans, and landscaping which will be discussed later in the meeting. The project also includes the removal of most of the citrus trees on the property with the exception of the first two rows adjacent to Newport Avenue, which will be incorporated into the design layout of the project.

This item was continued without discussion from the Planning Commission meeting on September 10, 2003 to October 1, 2003 to allow for additional information to be provided on the Tentative Tract Map, provide a Planned Community document for the zone change request and to modify the environmental documentation pertaining to noise mitigation. Staff has also re-evaluated information provided by a supplement noise study which modifies the design of the project. These changes are discussed under Noise Impacts.

On September 25, 2003, a revised Notice of Intent (NOI) to adopt a Mitigated Negative Declaration Environmental Impact (Attachment A) was prepared and issued for the mandatory 20-day public review period which began on September 26, 2003 and would end on October 15, 2003. All of the potential impacts that were identified in the Initial Study can be mitigated to below a level of significance and mitigation measures are included as conditions of approval of the project allowing it to be approved with a Mitigated Negative Declaration in accordance with the requirements of CEQA.

As of September 25, 2003, no written or verbal comments have been received or been forthcoming. Staff has been informed that IVDA and Omnitrans will be sending agency comment letters. Comments received from City departments have been addressed through revisions to the project design and Conditions of Approval.

The applicant has addressed issues that the Planning Commission had identified such as quiet and safe streets, parks located at the center of the neighborhood, provision of neighborhood pathways, garages oriented so that they do not face the street, clustering of residential buildings around open space and/or recreational amenities in small lot subdivisions.

The development proposes a private, gated community with two roadway entrances off of Newport Avenue. The westerly entrance will be a 28-foot wide private roadway. The easterly entrance will be a 32-foot wide private roadway. Guest parking is provided with 27 spaces located next to the common open space and additional street parking is available but limited to one side of the street on both entry roads.

The traffic study for the proposed tract map does not identify the need for any mitigation measures. The project is expected to generate 479 daily trips. The Public Safety Department has reviewed the site layout and affirmed that they will be able to get their emergency vehicles and fire apparatus/equipment into the community.

The future homes are designed with "rear loaded" lots, providing access to the two car garages from a rear alley. These units contain two stories and front porches will be included on every house.

The proposed tract and future residential community will require the establishment of a Homeowners Association (HOA) as well as the development and recordation of appropriate Covenants, Conditions and Restrictions (CC & R's).

The layout of the project involves thirty houses facing north and south and twenty facing east and west. In consideration of this layout, attention has been given to the need for energy efficiency using orientation and placement of the houses and the installation of double paned windows in all dwelling units within the project. The project will be required to meet all of the energy efficiency requirements of the California Building Code Title 24, as applicable.

Proposed amenities within the development include a pool, a spa, and pedestrian pathways through the 32,000 square feet of common area/open space at the center of the community.

The noise study indicated that the combined noise level of the existing traffic and railroad, at the project frontage is 66.6 dB CNEL. To comply with the Loma Linda General Plan policy of 65 dB CNEL for maximum exterior noise levels, the applicant is proposing to place a six-foot high landscape berm and transplant two rows of existing orange trees in front of the berm as a sound buffer. Staff has determined that the two rows of orange trees would be sufficient to bring the noise level down at least 1.6 dB CNEL to comply with the maximum noise level (Condition No. 1.22).

One mail kiosk is provided within the development and the applicant is working to obtain a letter from Waste Management for service to the project site.

An added component in the Conditions of Approval is prewiring to host coaxial, cable, and fiber optic installation for each unit. This is a new City requirement that will ensure new residences are equipped with links to meet the latest communications/technological advances.

The proposed project is located in the Inland Valley Development Agency (IVDA) Redevelopment Project Area. As a result, a development agreement with the City acting on behalf of the IVDA to assist in the production of future, affordable housing units throughout the City was formulated.

The General Plan designates the subject property as Medium Density Residential. The Zone Change to the proposed "Planned Community" (PC) zoning district for residential development is consistent with the existing General Plan Land Use designation. The proposed PC zone would limit this area to residential use and ancillary uses and amenities such as a recreation center, community pool and recreational facilities, parks and trails.

Staff recommends that the Planning Commission recommend the following actions to the City Council: Approve and adopt the Revised Mitigated Negative Declaration; Approve and adopt Zone Change No. 02-06 and the Planned Community Document for "The Orchard" based on the Findings; Approve Tentative Tract Map (TTM) No. 16382 based on the Findings, and subject to the Conditions of Approval; and Approve the Development Agreement.

Assistant Planner Colunga stated that the department received two letters from neighboring residents; one was in favor of the project, the other was in opposition.

Chair Neff asked how traffic at the entrance to the project would interfere with local traffic. Associate Engineer Peterson replied that the entrance to the west was for emergency access only and the entrance to the east would be for residents.

Commissioner Christianson asked about mitigating the lighting on the rear of alley-loaded homes so they would not affect the neighbors and also asked about the extra lighting in the

alleys. Director Woldruff said the onsite lighting could be directed away from the neighboring houses and added that a lighting plan would be required at the PPD stage.

Chair Neff opened public comment period at 7:20 p.m.

Marjorie Barakian, 11464 Via Lido, Loma Linda informed the Commissioner that she had not received the Notice of Intent that was sent to residents within the 300-foot radius of the project. She continued by presenting the following concerns to the Commission:

- The fact that it's a gated community: the new residents would be isolated from the existing community;
- Parking and child safety because of the increased traffic;
- Narrowing of Newport street;
- Environmental issues such as wildlife protection especially since the work began in the San Timoteo creek;
- Lot sizes and density that should be reviewed carefully; and
- Survival of transplanted orange trees. She pointed out that some of the orange trees planted at Leonard Bailey Park have since died and not been replaced and she wouldn't want the same thing to happen in the project.

Chair Neff thanked Mrs. Barakian for her comments.

Tricia Thrasher, 26058 Via Oro, Loma Linda discussed the following issues:

- Construction noise – end time at 10 p.m. is too late. Requested that time be changed to 8 pm.
- Noise element – measurability not addressed. Ensure that noise level does not exceed the prescribed 65 decibels;
- Development plan – required by Zoning Code. Following items should be in development plan: Lot sizes, lot coverage, and building height. There is nothing in writing regarding the maximum lot coverage that should be 40% for single-family homes;
- In her opinion the project is too massive;
- The conditions of Approval should contain all development standards of the development plan; and
- Emergency access is restricted

Chair Neff thanked Ms. Thrasher for her comments.

Steve Berzansky, the Steven Walker Homes representative, thanked Mrs. Barakian and Ms. Thrasher for their comments and addressed the Commission in response to comments from both residents in the following manner:

- In regards to the wall, the orientation of the homes could be changed so that the yards are not facing the road, if necessary;
- Orange trees were selected because they are denser and are related to the heritage of the area. Transplanting of the trees at the right time can be successful;
- Maintenance of landscape would be responsibility of HOA;
- There would be a remote entrance gate for security reasons;
- CEQA states that construction noise is permitted from 7 am to 10 pm. He agreed with Ms. Thrasher and was ready to change it to 5 pm;
- In regards to building height, he has no issue with the maximum height of 35 feet;
- The setbacks are a minimum of 10 feet between homes and all homes have front porches;

- There would be a single mailbox island to provide a place for impromptu social interaction between neighbors;
- The houses have varying setbacks for curb appeal;
- He stated that they would build a product that would win the Planning Commission's approval. He had no issue with a Development Plan in the Conditions of Approval because it will tie the builder to it;
- There are three models being proposed: 1930 s.f, 2114 s.f, and one that is more than 2300 s.f and prices would begin in the \$300,000 range, which should help property values in the surrounding area;
- Parks and paseo are planned throughout the project;
- Planned ½ mile of trails in the project;
- Garages not facing the street.

He concluded by stating that Steven Walker Homes would enter into a Development Agreement with the City whereby \$180,000 would be paid to meet the affordable housing requirement.

Commissioner Christianson asked if the traffic light at Barton Road and Newport Avenue would be adjusted for the new traffic flow. Associate Engineer Peterson replied that as conditions change the timing of the traffic lights would be adjusted.

In connection with Mrs. Barakian's comments about the dead orange trees that were planted at Leonard Bailey, Commissioner Rosenbaum asked if the trees being removed from the project area could replace the dying ones at the park. Director Woldruff replied that she would ask City Engineer Thaipetr if it would be feasible and would follow up with the Parks, Recreation and Beautification Committee.

Chair Neff closed public comment period at 8:10 pm

Commissioner Essex expressed his concerns about the Redlands Unified School District. Senior Planner Lamson replied that staff had not received any comments from the RUSD and added that the developer would have to pay school fees.

Chair Neff stated that he was a proponent of large lot sizes and wanted to know how the developer had come to design a small lot subdivision. Mr. Bersansky replied that their studies had shown that there was a shortage of housing in Loma Linda and added that small-lot subdivisions were very desirable to a developer. Director Woldruff informed the Commission that similar types of projects had been successful in the past.

Commissioner Rosenbaum had questions for Ms. Thrasher regarding trees, more particularly orange and olive trees. Ms. Thrasher explained that orange trees do have a shelf life and would eventually die, bringing up the viability of the plan to plant the two rows on Newport Avenue. She added that an arborist would choose the best trees and when properly maintained the trees would succeed. As for the olive trees, Ms. Thrasher explained that they are very slow to grow and are very messy. Commissioner Rosenbaum asked that a condition be added requiring the dead trees to be replaced. Senior Planner Lamson said that condition 1.22 did address the situation.

Chair Neff asked about access to the tract in relation to walking trails. Steve Berzansky stated that there would be ½-mile walking trail for residents only. If the commission wished to give the whole community access to that trail system, a pedestrian gate could be put in. He continued to

say that the vehicle gate would remain closed for security reasons. A discussion regarding the issue of a gated community ensued and it was the consensus that the whole issue of gated communities was the security and if a pedestrian gate were provided then the gated community concept would be compromised.

Chair Neff called a brief recess at 9 p.m. and tabled this item until Item 2 – Presentation by the Loma Linda University Medical Center (LLUMC) on the East Campus project was addressed to allow the representative of the LLUMC to leave the meeting. Chair Neff reconvened the meeting at 9:10 p.m.

**PC-03-22 - LOMA LINDA UNIVERSITY MEDICAL CENTER MASTER PLAN, EAST CAMPUS OVERVIEW - A presentation by Kenneth Breyer and Michael Jackson on the proposed plans for the LLUMC East Campus, which include a Specialty Hospital and Ambulatory Services, etc. The presentation is the first in a series related to the LLU/LLUMC Master Plan Update.**

Mr. Michael Jackson, MPH, Senior Vice President Administrator of the East Campus introduced himself and his colleagues Mr. Ken Breyer, ME, Assistant Vice President, Loma Linda University Medical Center, and Mr. Robert Frost, Manager, Loma Linda University Foundation. He gave a PowerPoint presentation on the East Campus Project to illustrate the Medical Center's plans for the area. The plans call for the integration of a garden-like environment the center will utilize for quicker and more complete healing of patients with serious rehabilitation needs.

Mr. Jackson reported that CAL FED had donated 1.1 acres of land behind its Loma Linda branch offering better access to offices, clinics, and parking areas. A multi-use park is planned for part of the donated property. The area adjacent to the bank building will be equipped with benches and picnic tables, as well as special access provisions to parking and trails for disabled persons. Mr. Jackson stated that he also hoped to incorporate a "boundless playground" into the park. Of the other services being planned for the East Campus, Mr. Jackson listed a few examples: Imaging Center, Orthopedics Center, Neuro Surgery, Occupational medicine, and urgent care to name a few.

Mr. Jackson explained to the Commission that the next step in the project was to complete architectural designs. With the deed from CAL FED, LLUMC will be ready to seek funding for the construction once the plans are completed and is planning to break the project into smaller portions for fundraising purposes.

Mr. Jackson concluded his presentation by thanking the Planning Commission for their time and assuring them that he wanted them to understand their approach to the new development in the East Campus and that the Medical Center would return at a later date with more exact plans for the project.

Chair Neff thanked Mr. Jackson for his presentation and returned to the discussion of Item 1 - Zone Change (ZC) NO. 02-06, Tentative Tract Map (TTM) NO. 16382, and Development Agreement stating that he would begin with Attachment C, Conditions of Approval. The Conditions of Approval were discussed at length with the following conditions modified and/or added:

Condition 1.22, - Added wording would read:

... If the trees become diseased or die, the Homeowners' Association shall be responsible to replace the trees in like size, number and location within 90 days upon receipt of notice by the City of Loma Linda or as determined by a licensed arborist and the Community Development Department.

Condition 1.4 – Added wording would read:

... Landscape plans for the Landscape Maintenance District shall be on separate plans. The applicant shall landscape the median between Barton Road and Newport Street along the frontage of the project site subject to approval by the Community Development and Public Works Departments. The applicant shall prepare and submit a landscape improvement plan for the median area between Barton Road and Newport Road along with a cost estimate for approval by the Public Works and Community Development Departments. A cash deposit shall be provided to cover the costs of the improvements along with a contingency as determined by the Public Works Department.

Condition 1.7 – Amended as follows:

The applicant shall file and go through the process of a Precise Plan of Design for approval of the residential design and related amenities commensurate with the conceptual landscape plan. The homes shall be rear-loaded lots that provide vehicular access from the alleys.

Condition 1.15 was amended as follows:

The trash receptacle location and design shall be approved by the waste hauler company and written proof of the approval shall be provided to the Community Development Department prior to issuance of building permits.

Condition 1.20 removed

Condition 1.21 was amended to read:

The street side exterior walls on lots 5 and 23 shall be removed and the future housing units shall be oriented placing the front yards adjacent to Newport Avenue and the rear yards on the south side of the residence.

Condition 2.5 was amended to read:

Illuminated building address numbers shall be provided. Addresses shall be a minimum height of four inches and visible for emergency services as approved by the Public Safety Department.

Condition 2.9 – Added amended to read:

The westerly access to the project site shall be used for emergency vehicles only and shall not provide public access. A knox box shall be installed in accordance to the City of Loma Linda Public Safety Department standards and requirements.

A new condition was added as follows: All driveways shall be constructed of Portland cement.

Condition 3.23 amended to read:

Street light locations, as required, are to be approved by the City of Loma Linda.

Commissioner Christianson complemented staff on a job well done.

Chair Neff brought the discussion back to the Noise issue. Senior Planner Lamson stated that the condition would be changed to add:

The proposed project shall comply with the City of Loma Linda General Plan policy for interior noise standard of 45 dB CNEL and exterior noise standard of 65 dB CNEL.

Condition 3.27 amended to read:

Integrated sidewalks on the south side of Newport Avenue shall be provided. Sidewalks are to be a minimum of 5 feet in width (measured from the inside of the curb).

Condition 3.63 was amended to read:

City of Loma Linda to be water purveyor. A single water meter is required. On-site water meters can be allowed through the Homeowner's Association. On-site water pipelines and meters shall be private and maintained by Homeowner's Association.

The following changes were done to Condition 5.1.

5.1 E. Change "may" to "shall" in first sentence.

5.1 M. Add that HOA responsible for landscaping in alleys

5.1 O. New: All areas not designated as private open space shall be maintained by the Homeowners' Association.

Chair Neff directed the discussion to the Negative Declaration. Director Woldruff pointed out that in Attachment B – Plan Community Document, under Community Standards, the condition will read: Lot coverage shall not exceed 60 percent of the gross lot area and the average lot coverage for the entire tract shall not exceed 55 percent of the gross lot areas.

Director Woldruff restated that in Attachment A – Notice of Intent/Initial Study on page 16, under Mitigation condition #2, Add to 65 dB for exterior noise levels.

Continuing in Attachment A, page 17, Director Woldruff reiterated that item 5 would be amended to say: During Construction of the site construction activities cease between the hours of 6:00 p.m. to 7:00 a.m.

**Motion by Roberts, seconded by Christianson, and carried by a vote of 5-0 to recommend the following actions to the City Council: Approve and adopt the revised Mitigated Negative Declaration; Approved and adopt Zone Change No. 02-06 and the Planned Community Document for "The Orchard" based on the Findings; Approve Tentative Tract Map (TTM) No. 16382 with modifications based on the Findings, and subject to the Conditions of Approval; and, Approve the Development.**

CONTINUED ITEMS – NON-PUBLIC HEARING

**PC-03-23 - STUDY SESSION – DRAFT GENERAL PLAN UPDATE**

Because of the lateness of the hour, Commissioner Christianson made the following motion:

**Motion by Christianson, seconded by Essex, to continue Item 3 – Draft General Plan Update to a special meeting.**

A brief discussion ensued regarding the Draft General Plan, and concluded with Commissioner Christianson's amendment to the initial motion to continue as follows:

**Motion by Christianson, seconded by Essex, and carried by a vote of 5-0, to continue to a special meeting scheduled for Tuesday, October 7, 2003 at 6 pm to address items E.3 - DRAFT General Plan Update; Item F – Approval of Minutes of the Special Meeting of July 23, 2003 and the Regular meeting of August 6, 2003; Item G – Reports by the Planning Commissioners; and Item H – Report the Community Development Department Director.**

**PC-03-24 - APPROVAL OF MINUTES (LIMITED TO 15 MINUTES) – Minutes of the Special Meeting of July 23, 2003, and the Regular meeting of August 6, 2003.**

The approval of the above referenced minutes was continued to the regular meeting of October 1, 2003.

**REPORTS BY THE PLANNING COMMISSIONERS**

The Planning Commissioners' report was continued to a special meeting of October 7, 2003.

**COMMUNITY DEVELOPMENT DIRECTOR REPORT**

The Community Development Department Director's report was continued to a special meeting of October 7, 2003.

Meeting was adjourned at 10:55 pm

Minutes approved at the regular meeting of November 5, 2003.

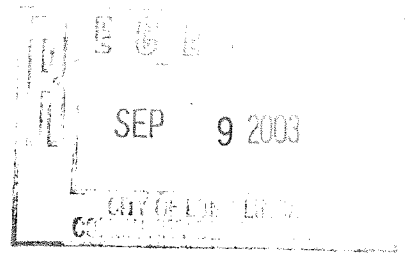
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Administrative Secretary



# **Attachment H**

## **Letters of Public Comment**



Ardina Carlos - Calixterio  
26439 Maple Ave.  
Long Linda CA. 92354  
9-2-03

To whom it may concern

I would like to voice my opposition  
to your plan of development to the this  
area. Tract map # 16382 ZC.

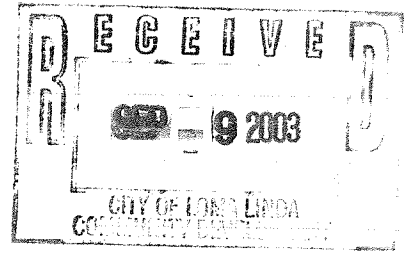
By cramming 50 houses into such  
a small area will increase noise, Traffic &  
congestion in the area. We want to maintain  
the tranquility of the area. Crowded environ-  
ment brings stress to the area & residents.

Thank you.

Ardina Carlos

SEPT 9, 2003

RE: TRACT MAP #16382  
ZC # 02-0006



PLANNING COMMISSION  
CITY LOMA LINDA 92354

I OPPOSED THE PROPOSED PLANNING - CONVERTING  
7.0 ACRES INTO 50 SINGLE FAMILY HOMES.

MY COMMUNITY WHICH IS LOCATED SOUTH BARTON RD;  
IS KNOWN FOR ITS ZONING OF RELATIVELY BIGGER  
LOTS, LARGER HOMES, LESS DENSE POPULATION, LESS  
TRAFFIC, LESS NOISE, MORE PEACEFUL ENVIRONMENT  
THAN IT'S COUNTERPART COMMUNITY - NORTH BARTON  
RD.. WHERE HOMES ARE SMALLER. THIS 2  
COMMUNITIES ARE VERY DIFFERENT IN ZONING AND  
DISTINCT IN PROPERTY VALUES.

TO BUILD THIS 50 SMALL HOMES AT THE PROPOSED SITE,  
DOES NOT MAKE MY COMMUNITY AN EXTENSION OF  
SOUTH OF BARTON - WITH THE <sup>BETTER</sup> IMAGE IT PROJECTS.

ALSO, CORNER <sup>STREETS</sup> BARTON/NEWPORT RD. AND CORNER  
NEWPORT/BRYN MAWR ARE <sup>TOO</sup> NARROW INTERSECTIONS  
TO ACCOMMODATE A.M. + P.M. COMMUTE. IT WILL CAUSE  
MASSIVE TRAFFIC JAMS + CONGESTIONS, NOISE @ THOSE HOURS.  
AND UNKNOWN NUISANCE. I VOTE NO !!

EMER C. CANLON  
11446 VIA NORTE  
L.L. 92354